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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09 769,272	01 26 2001	Marni M. Hurwitz	A7921	4355

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SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3213

EXAMINER

DELGIZZI, RONALD E

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 07 17 2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/769, 272

Applicant(s)

HURWITZ

Examiner

DELGIZZI

Group Art Unit

2875

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 7/25/01 AND 12/03/01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-18 is/are pending in the application.
- Of the above claim(s) 1-4 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 5-18 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☒ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

2. Claim 17 is objected to because of the following informalities. Appears that "mask" should have been --mast-- in light of the claims dealing with sail boat structure. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 6 & 17-18 are rejected under 35 USC 103(a) as unpatentable over MOORE ET AL. in view of MOCHA.

5. Regarding Claims 5, 6 & 17-18, MOORE ET AL. discloses (Col 1, lines 5-7) and shows (Fig 1) the invention substantially as claimed including a marine craft, comprising:

at least one sail structure (Fig 1); at least one flotation structure (Examiner's note: the entire hull of the sail boat qualifies as a "flotation structure"); MOORE ET AL. also discloses said sail structure includes a mask (sic).(Examiner interpreted this as "mast") (Fig 1); and said sail structure includes a boom (fig 1); however, MOORE ET AL. fails to expressly disclose at least one

electroluminescent lamp attached to said sail structure, for providing auxiliary illumination for said craft in low-light or no-light conditions.

MOCHA teaches a self-illuminated "tell-tale" (Figs 1,2, & 10) (Col 2, lines 13-23) comprising electroluminescent material that, in turn, attaches to a sail for providing auxiliary illumination. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the electroluminescent lamp for the sail structure to the marine craft of MOORE ET AL. For the purpose of providing extra visibility to the craft's sailor under low- or no-light conditions and thereby continue to sail efficiently under such ambient lighting conditions.

6. Claims 7-12 & 16 are rejected under 35 USC 103(a) as unpatentable over MOORE ET AL. in view of MOCHA as applied to Claims 6 above and further in view of EVANS.

7. Regarding Claims 7-12 & 16, MOORE ET AL. in view of MOCHA discloses and shows the invention substantially as claimed including a craft as claimed in Claim 6, wherein said flotation structure comprises a dinghy (Note: when the mast and boom are removed, which is the case in small sail boats, the remaining hull can and often does serve as a dinghy). Also, said flotation structure comprises a boat body. However, MOORE ET AL. in view of MOCHA fail to expressly disclose that said electroluminescent lamp is affixed to an outer surface of said body or recessed in an outer surface of said body. Nor do MOORE ET AL. in view of MOCHA expressly disclose that said craft is a jet-ski, or a marine rescue vehicle; or a life raft; however, it would have been obvious to one having ordinary skill in the art to have substituted the craft of MOORE ET AL. in view of MOCHA with a jet-ski, or a marine rescue vehicle, or a life raft since it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate

the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. (Examiner's Note: With either a motor or under strong wind power, the marine craft can act as a jet-ski; also, the craft can be used for rescue and as life raft in an emergency).

EVANS teaches a distance lighting system for boats wherein electroluminescent strips are disposed in the bumper guard surrounding the gunwale of the boat. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the electroluminescent strips as taught by EVANS to the outer surface or recess the strips in an outer surface of the sail boat structure of MOORE ET AL. in view of MOCHA for the purpose of providing a more visible and therefore safer marine craft.

8. Claims 13-15 are rejected under 35 USC 103(a) as unpatentable over MOORE ET AL. in view of MOCHA and further in view of EVANS.

9. Regarding Claims 13-15, MOORE ET AL. in view of MOCHA disclose and show apparatus for marine use (Fig 1), comprising:

an immersible body (the hull qualifies as an "immersible body") having at least one transparent or semi-transparent surface layer; and at least one electroluminescent lamp attached to said sail structure, for providing auxiliary illumination for said craft in low-light or no-light conditions (Note: most sailboats are painted or varnished, the latter would render a transparent or semi-transparent coating); said immersible body comprises a diving fin (Examiner's note: sailboats inherently comprise a "fin" which would be either a keel or centerboard projecting downwardly from the underside of the sailboat; however, MOORE ET AL. in view of MOCHA fail to teach an electroluminescent lamp recessed in an outer surface of said immersible body beneath said transparent or semi-transparent

layer; Nor do MOORE ET AL. in view of MOCHA expressly disclose that said immersible body comprises a diving mask or goggles.

EVANS teaches a distance lighting system for boats wherein electroluminescent strips are disposed in the bumper guard surrounding the gunwale of the boat. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the electroluminescent strips as taught by EVANS recessed in an outer surface of the immersible boat structure of MOORE ET AL. in view of MOCHA for the purpose of providing a more visible and therefore safer marine craft.

With regard to the immersible body comprises a diving mask or goggles, it would have been obvious to one skilled in the art at the time the invention was made to combine a diving mask or goggles with the marine craft of MOORE ET AL. in view of MOCHA since Examiner takes Official Notice that such diving masks or goggles are old and well known to be used in conjunction with marine craft whether for pleasure or for rescue missions.


Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald E. DelGizzi, Mon-Thurs, 0730 to 1800 EST at (703) 305-0648, or to Sandra O'Shea, Supervisory Patent Examiner, Mon-Fri, at (703) 305-4939, or to the receptionist at (703) 308-0956 (phone) or at either fax # (703) 305-3431 or fax # (703) 308-7724.

rdg



July 12, 2002


Ronald E. DelGizzi

Patent Examiner., Art Unit 2875